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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,749	12/30/2003	Dan M. Mihai	EIS-5909E (1127I3-1160)	2669

29200   7590   02/17/2009
BAXTER HEALTHCARE CORPORATION
1 BAXTER PARKWAY
DF2-2E
DEERFIELD, IL 60015

EXAMINER
SOREY, ROBERT A

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
02/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/748,749	MIHAI ET AL.
	Examiner	Art Unit	
	ROBERT SOREY	3626	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 November 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   In the amendment filed 11/19/2008, the following occurred: Claims 1, 6, and 14 were amended, and claims 29 and 30 were cancelled. Claims 1-28 are presented for examination.

Information Disclosure Statement

2.   In the Office Action mailed 08/28/2008 an acknowledgement was hereby made of receipt of Information Disclosure Statement(s) filed by applicant on 06 August 2004. Due to its excessive length, Applicant was encouraged to provide a concise explanation of references particularly relevant to the submitted application being examined. The Examiner has carefully considered every cited reference in its entirety. It is noted here that no repose or acknowledgement of said request was presented by Applicant in the response filed 11/19/2008.

Response to Amendments

3.   Applicant's amendments appear not to add new matter and will be treated below on the merits. It is noted here that these amendments have brought up 35 U.S.C. 112, second paragraph, issues as detailed below.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5.   **Claims 1 and 14** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6.   As per claims 1 and 14, Applicant teaches "a second server in communication

with the first server" but that the second server is "separated" from network that links the

medical device or terminal device to the first server. Applicant is silent on what is meant

by "separated". Do the first and second servers communicate via a second network or is

the second server a part of the first server? Does "separated" simply mean that the

same network that connects the first server to the medical and terminal devices is used

but that a firewall exists between those devices and the second server?

7.   As per claim 1, it is rejected again, wholly, because Applicant teaches "a

message generated by the second server and transmitted over the network through the

first server, the message including patient information" but does not teach where the

message is sent. Is the message sent to the medical device or the terminal device or

some other entity? It is also unclear as to what initiates the message generated by the

second server. Was it generated upon some request or at random or at regularly

scheduled intervals? This is not made clear in the claims.

8.   As per claim 14, it is rejected again, wholly, because Applicant teaches "a

response message sent from the first central computer" but does not teach where the

message is sent. Is the message sent to the medical device or the terminal device or

some other entity? It is also unclear as to what initiates the message generated by the

second server. Was it generated upon some request or at random or at regularly

scheduled intervals? This is not made clear in the claims.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   **Claims 1-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over

U.S. Patent Application Publication 2002/0038392 to De La Huerga in view of U.S.

Patent 6,980,958 to Surwit et al. in view of U.S. Patent Application Publication

2003/0078808 to Ng.

11.   As per claim 1, De La Huerga teaches a system comprising:

--*a terminal device* (Fig. 26, ele. 260, is met by the controller or pump)(see: De

La Huerga, paragraphs 138, 187, 192-246, 270-281, 288-307, 315, and 320-329)

attached to a network (Fig. 26, ele. 272)(see: De La Huerga, paragraphs 194, 195, 224,

237, 243, 289, 291, 300, 320, and 323) *and comprising a visual display* (Fig. 26, ele.

264)(see: De La Huerga, paragraphs 192, 193, 205-208, 213, 215, 2118, 221, 224, 233,

241, 264, 291, 294, 300, 301, 303, and 316);

--*a medical device attached to the network* (Fig. 26, ele. 100a, is met by the

pump)(see: De La Huerga, paragraphs 201, 202, 207, 219, 220, 223, 243, 246, 268,

277, 285, 293, and 295);

--*a communication initiated by the medical device and transmitted over the*

network, the communication comprising status or programming information for the

medical device (Fig. 38; Fig. 42)(see: De La Huerga, paragraphs 31, 201, 202, 212,

214, 218-224, 285, 296, 322, and 325);

--*a first server attached to the network* (Fig. 43, ele. 704; Fig. 31, ele. 630)(see:

De La Huerga, paragraphs 151, 154, 155, 224, 243, 259, 260, 268, 269, 271, 319, and

320);

As per the limitations:

--*a second server in communication with the first server, wherein the medical*

device and the terminal device communicate with the first server, the second server

separated from the medical device and the terminal device via the first server and the

network;

--*a message generated by the first server and transmitted over the network upon*

request by the terminal device or upon occurrence of an event, said message

comprising at least a portion of the status or the programming information contained

within the communication initiated by the medical device,

De La Huerga teaches a terminal device attached to a server that generates

messages confirming the status of the medical device also attached to the terminal

device (Fig. 42)(see: De La Huerga, paragraphs 31, 32, 154, 155, 215, 221, 224, 243,

259, 260, 271, 319, and 320), but fails to teach such a configuration with a second

server and that the medical device routs status messages to the terminal devices

through the server; however, Ng teaches medical devices (Fig. 3, ele. 20a-20c) and

terminal devices (Fig. 3, ele. 44a-44d) connected via a network (Fig. 3, ele. 12, 14, 30

and 40) to a first server (Fig. 3, ele. 34; and Fig. 4, ele. 34) which is connected to a

second server (Fig 4., ele. 48) in such a way as to rout all communication between

either the medical or terminal device and the second server through the first server

(see: Ng, paragraphs 41-67). Furthermore, Surwit et al. teaches remote patient monitors and physician access terminals connected to a server through a network wherein patient status information is sent from the patient monitor to the server and from the server to the physician's terminal upon request (Fig. 1)(see: Surwit et al., column 7, line 55 through column 8, line 20; column 8, line 60 through column 9, line 42; column 9, lines 60-61; column 10, line 4 through column 13, line 10; and column 13, line 62 through column 14, line 9).

As per the limitation:

--*wherein at least a portion of said message is provided in a humanly readable format on the visual display* (Fig. 26, ele. 264; Fig. 31, ele. 614)(see: De La Huerga, paragraph 215, 218, 219, 221, 260)*; and*

As per the limitation:

--*a message generated by the second server and transmitted over the network through the first server,*

Ng teaches that the second server must be capable of contacting any remote server at any time (see: Ng, paragraph 53), can copy data to or from the second server to the first server (see: Ng, paragraph 65), and the first server waits for requests from the second server or other devices and servers (see: Ng, paragraph 66). As per the limitation that *the message including patient information*, the Examiner has placed little weight on what the message includes since the effect of the contents of the message with regard to generating said message at the second computer and transmitting it over the network through the first server was not made clear in the claims and did not alter or

change the system. The message could pertain to something other than patient

information and the system would not function differently. Therefore, _the message_

including patient information is nonfunctional descriptive material and is not given

weight for the purposes of examination. See: Ex parte Herman Mathias, Appeal No.

2005-1851, Application No. 09/612788; and Ex parte James Prescott Curry, Appeal No.

2005-0509, Application No. 09/449237. It is noted, however, that the prior art teaches

patient information (see: Surwit, column 23, lines 15-21; and De La Huerga, abstract,

and at least paragraph 103) and reads on the nonfunctional descriptive material in the

claims.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the messaging features as taught by De La Huerga, the

patient status information request reply as taught by Surwit et al., and the system

configuration as taught by Ng. The well known elements described are merely a

combination of old elements, and in the combination, each element merely would have

performed the same function as it did separately, and one of ordinary skill in the art

would have recognized that the results of the combination were predictable.

12.   As per claim 2, De La Huerga teaches the invention substantially as claimed, see

discussion of claim 1, and further teaches:

--_a request message generated by a software application executed by the_

terminal device (see: De La Huerga, paragraph 163, 201, 202, 204, 211), _a response_

message generated in response to the request message and comprising of information

contained within a data packet generated by the medical device (Fig. 38; Fig. 42)(see:

De La Huerga, paragraphs 31, 32, 201, 202, 204-206, 212, 214, 218-224, 296, 322, and

325), *and wherein said information is modified in response to a change in the*

information contained within another data packet generated by the medical device (Fig.

28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs

31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319,

and 320).

13.   As per claim 3, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 2, and further teaches:

        --*the program is written in a high-level software language* (see: Surwit et al.,

column 7, lines 46-54).

14.   As per claim 4, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 2, and further teaches:

        --*the program is written is an object-oriented language* (see: Surwit et al., column

7, lines 46-54).

15.   As per claim 5, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 2, and further teaches:

        --*the software application is a Web browser* (Fig. 1; and Fig. 8-Fig. 14)(see:

Surwit et al., column 7, line 55 through column 8, line 6, is met by the "internet

browsers").

16.   As per claim 6, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 2, and further teaches:

--the software application resides on the <u>first</u> server and its output is displayed in a browser (see: Surwit et al., column 7, line 55 through column 8, line 19; and column 11, lines 6-57).

17.   As per claim 7, De La Huerga teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--the network is located within a health care facility (see: De La Huerga, paragraphs 4, 8, 9, 43, 128, 130, 217, and 333).

18.   As per claim 8, De La Huerga teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--the medical device is an infusion pump (Fig. 26, ele. 100a)(see: De La Huerga, paragraphs 201, 202, 207, 219, 220, 223, 243, 246, 268, 277, 285, 293, and 295).

19.   As per claim 9, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--said information comprising an alarm, alert, or other notification (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, and 320).

20.   As per claim 10, De La Huerga teaches the invention substantially as claimed, see discussion of claim 9, and further teaches:

--said change in the information comprising cancellation of an alarm, alert, or other notification (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, 320, and 323, is met, for example, by "audible alert requesting the

physician to confirm the change" and 325 is met by "[t]he physician can reset the alert by pressing a button").

21.   As per claim 11, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

    --said information comprising pump programming (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

22.   As per claim 12, De La Huerga teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

    --said medical device is an infusion pump (Fig. 26, ele. 100a)(see: De La Huerga, paragraphs 201, 202, 207, 219, 220, 223, 243, 246, 268, 277, 285, 293, and 295) *and said change in the information comprising a change in the pump programming* (see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

23.   As per claim 13, De La Huerga teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

    --the terminal device is associated with a clinician responsible for care of a patient and the medical device is attached to the patient (Fig. 26)(see: De La Huerga, paragraphs 31, 99-106, and 322).

24.   As per claim 14, De La Huerga teaches a system comprising:

    --a request message generated substantially within a time interval by a program within a software application executed by a terminal device (see: De La Huerga, paragraph 163, 201, 202, 204, 211);

--a response message *sent from a first central computer* in response to the *request message and comprising information contained within a data packet* (Fig. 38; Fig. 42)(see: De La Huerga, paragraphs 31, 32, 201, 202, 204-206, 212, 214, 218-224, 296, 322, and 325),

De La Huerga does not specifically teach that response message sent by the first central computer comprises information *generated by a medical device*; however, Surwit et al. teaches remote patient monitors and physician access terminals connected through a network, wherein patient status information is sent from the patient monitor to the physician's terminal upon request (Fig. 1)(see: Surwit et al., column 7, line 55 through column 8, line 20; column 8, line 60 through column 9, line 42; column 9, lines 60-61; column 10, line 4 through column 13, line 10; and column 13, line 62 through column 14, line 9).

--*wherein said information is modified in response to a change in the information contained within another data packet generated by the medical device* (Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, and 320)*; and*

As per the limitation:

--*a response message sent from the first central computer including information contained within a data packet generated by a second central computer, wherein the second central computer is in communication with the first central computer, the medical device and terminal device separated from the second central computer via the first central computer and the network*.

Ng teaches medical devices (Fig. 3, ele. 20a-20c) and terminal devices (Fig. 3, ele. 44a-44d) connected via a network (Fig. 3, ele. 12, 14, 30 and 40) to access messages from a first server (Fig. 3, ele. 34; and Fig. 4, ele. 34) which is connected to a second server (Fig 4., ele. 48) in such a way as to rout all communication between either the medical or terminal device and the second server through the first server (see: Ng, paragraphs 41-67). Ng teaches that the second server must be capable of contacting any remote server at any time (see: Ng, paragraph 53), can copy data to or from the second server to the first server (see: Ng, paragraph 65), and the first server waits for a request from the second server or other devices and servers (see: Ng, paragraph 66). As per the limitation that the message includes _patient_ information, the Examiner has placed little weight on what the message includes since the effect of the contents of the message with regard to generating said message at the second computer and transmitting it over the network through the first server was not made clear in the claims and did not alter or change the system. The message could pertain to something other than patient information and the system would not function differently. Therefore, that the message includes _patient_ information is nonfunctional descriptive material and is not given weight for the purposes of examination. See: Ex parte Herman Mathias, Appeal No. 2005-1851, Application No. 09/612788; and Ex parte James Prescott Curry, Appeal No. 2005-0509, Application No. 09/449237. It is noted, however, that the prior art teaches patient information (see: Surwit, column 23, lines 15-21; and De La Huerga, abstract, and at least paragraph 103) and reads on the nonfunctional descriptive material in the claims.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the messaging features as taught by De La Huerga, the patient status information request reply as taught by Surwit et al., and the system configuration as taught by Ng. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

25.   As per claim 15, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--*wherein the program is written in a high-level software language* (see: Surwit et al., column 7, lines 46-54).

26.   As per claim 16, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--*wherein the program is written is an object-oriented language* (see: Surwit et al., column 7, lines 46-54).

27.   As per claim 17, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--*wherein the program is written in JAVA* (see: Surwit et al., column 7, lines 46-54).

28.   As per claim 18, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--*wherein the program is written in C+* (see: Surwit et al., column 7, lines 46-54).

29.   As per claim 19, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 14, and further teaches:

   --*wherein the program is written in Visual Basic Script* (see: Surwit et al., column

7, lines 46-54).

30.   As per claim 20, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 14, and further teaches:

   --*wherein the software application is a Web browser* (Fig. 1; and Fig. 8-Fig.

14)(see: Surwit et al., column 7, line 55 through column 8, line 6, is met by the "internet

browsers").

31.   As per claim 21, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 14, and further teaches:

   --*wherein the software application resides on a server and its output is displayed

in a browser* (see: Surwit et al., column 7, line 55 through column 8, line 19; and column

11, lines 6-57).

32.   As per claim 22, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 14, and further teaches:

   --*wherein the terminal device is attached to a network within a health care facility*

(see: De La Huerga, paragraphs 4, 8, 9, 43, 128, 130, 217, and 333).

33.   As per claim 23, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 14, and further teaches:

--*wherein the medical device is an infusion pump* (Fig. 26, ele. 100a)(see: De La

Huerga, paragraphs 201, 202, 207, 219, 220, 223, 243, 246, 268, 277, 285, 293, and

295).

34.   As per claim 24, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 23, and further teaches:

--*said information comprising an alarm or an alert* (Fig. 28, ele. 306; Fig. 35, ele.

454 and 456; and Fig. 42)(see: De La Huerga, paragraphs 31, 32, 36, 38, 155, 208,

211, 214, 215, 221, 223, 224, 243, 259, 260, 271, 285, 319, and 320).

35.   As per claim 25, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 24, and further teaches:

--*said change in the information comprising cancellation of an alarm or an alert*

(Fig. 28, ele. 306; Fig. 35, ele. 454 and 456; and Fig. 42)(see: De La Huerga,

paragraphs 31, 32, 36, 38, 155, 208, 211, 214, 215, 221, 223, 224, 243, 259, 260, 271,

285, 319, 320, and 323, is met, for example, by "audible alert requesting the physician

to confirm the change" and 325 is met by "[t]he physician can reset the alert by pressing

a button").

36.   As per claim 26, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 23, and further teaches:

--*said information comprising pump programming* (see: De La Huerga,

paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and 329).

37.   As per claim 27, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 26, and further teaches:

--said change in the information comprising a change in the pump programming

(see: De La Huerga, paragraphs, 40, 117, 118, 204, 211, 212, 223, 284, 286, 313, and

329).

38.   As per claim 28, De La Huerga teaches the invention substantially as claimed,

see discussion of claim 14, and further teaches:

--the terminal device is associated with a clinician responsible for care of a

patient and the medical device is attached to the patient (Fig. 26)(see: De La Huerga,

paragraphs 31, 99-106, and 322).

Response to Arguments

39.   Applicant's arguments from the response filed on 10/10/2008 have been fully

considered and will be addressed below in the order in which they appeared.

40.   In the remarks, Applicant argues in substance that (1) (claim 1) "neither De La

Huerga nor Surwit disclose a second server in communicatión with the first server,

wherein the medical device and the terminal device communicate with the first server,

the second server separated from the medical device and the terminal device via the

first server and the network, and a message generated by the second server and

transmitted over the network through the first server, the message including patient

information."; and that (2) (claim 14) "neither De La Huerga nor Surwit disclose a

response message sent from the first central computer including patient information

contained within a data packet generated by a second central computer, wherein the

second central computer is in communication with the first central computer, the

medical device and terminal device separated from the second central computer via the first central computer and the network."

41.   In response to Applicant's argument that (1) (claim 1) "neither De La Huerga nor Surwit disclose a second server in communicati6n with the first server, wherein the medical device and the terminal device communicate with the first server, the second server separated from the medical device and the terminal device via the first server and the network, and a message generated by the second server and transmitted over the network through the first server, the message including patient information.", the Examiner respectfully disagrees.

Applicant's argument is not persuasive. Applicant's arguments with respect to argument (1) have been considered but are moot in view of the new ground(s) of rejection.

42.   In response to Applicant's argument that (2) (claim 14) "neither De La Huerga nor Surwit disclose a response message sent from the first central computer including patient information contained within a data packet generated by a second central computer, wherein the second central computer is in communication with the first central computer, the medical device and terminal device separated from the second central computer via the first central computer and the network.", the Examiner respectfully disagrees.

Applicant's argument is not persuasive. Applicant's arguments with respect to argument (2) have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

43.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

44.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

45.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ROBERT SOREY whose telephone number is

(571)270-3606. The examiner can normally be reached on Monday through Friday,

8:30AM to 5:00PM (EST).

46.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Christopher Gilligan can be reached on (571)272-6770. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

47.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./
Examiner, Art Unit 3626
27 January 2009

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626